CHAPTER 75

An Act to amend
The Corporations Tax Act, 1972

Assented to December 2nd, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 1 of The Corporations Tax Act, 1972, being chapter 143, as amended by the Statutes of Ontario, 1973, chapter 157, section 1, is further amended by adding thereto the following paragraph:

30a. "family farm corporation" means a corporation that is throughout the fiscal year a corporation,

i. every share of the capital stock of which that confers on the holder thereof the right to vote was owned by an individual ordinarily resident in Canada or by such individual and a member or members of his family ordinarily resident in Canada,

ii. 95 per cent of the assets of which were farming assets, and

iii. which carried on the business of farming in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the farm.

(2) Paragraph 31 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

31. "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing, and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming and, for the purposes of subsection 2 of section 135 only, does not include the maintaining of horses for racing;
31a. "farming assets" of a family farm corporation means,

i. cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming,

ii. land, buildings, equipment, machinery and live stock that are used chiefly in the operation of the farm by the corporation,

iii. any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming,

iv. the building in which a shareholder or a member or members of his family reside who are engaged in the operation of the farm if that building is on land that is used or is contiguous to land used by that shareholder or member or members of his family in the operation of the farm,

v. shares in another family farm corporation.

(3) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraph:

43a. "member of his family" means, with respect to an individual referred to in paragraph 30a,

i. his spouse,

ii. his child,

iii. his father, mother, brother or sister or any lawful descendant of such brother or sister,

iv. the brother or sister of his father or mother or any lawful descendant of any such brother or sister,

v. the father, mother or any brother or sister of his spouse or any lawful descendant of any such brother or sister,

vi. his son-in-law or daughter-in-law,

vii. a person adopted by him under The Child Welfare Act or the spouse or any lawful descendant of such person, or

viii. his grandfather or grandmother.
2. Subsection 1 of section 22 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 4, is further amended by adding thereto the following clause:

(n) an amount paid or payable by a corporation to a jurisdiction in respect of a mining royalty tax or a mining tax based on the production of or profits from the operation of a mineral resource in the jurisdiction for the fiscal year, except as permitted by regulation.

3. Clause x of subsection 1 of section 24 of the said Act is repealed.

4. Subsections 1 and 2 of section 62 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 157, section 16, are repealed and the following substituted therefor:

(1) Except as otherwise provided in this section, there may be deducted in computing a corporation's income for a fiscal year such amount as an allowance, if any, in respect of

(a) an oil or gas well, mineral resource or timber limit; or

(b) the processing, to the prime metal stage or its equivalent, of ore from a mineral resource.

that is 33 1/3 per cent of the amount of the production profits or other subject of allowance of the corporation for the fiscal year as is prescribed by regulation.

(1a) Where a corporation has income for a fiscal year from an oil well or gas well that is outside Canada, there may be deducted in computing the corporation's income for a fiscal year, such amount as an allowance, if any, as is allowed by regulation.

(2) For greater certainty it is hereby declared that, in the case of a regulation made under subsection 1 prescribing the amount of production profits or other subject of allowance of a corporation in respect of an oil or gas well or a mineral resource or in respect of the processing of ore,

(a) there may be prescribed by such regulation an amount in respect of any or all,

(i) oil or gas wells or mineral resources in which the corporation has an interest, or
(ii) processing operations described in clause (b) of subsection 1 that are carried on by the corporation; and

(b) notwithstanding any other provision in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount of production profits or other subject of allowance of the corporation shall be determined.

(2a) For greater certainty it is hereby declared that, in the case of a regulation made under subsection 1a allowing to a corporation an amount in respect of an oil or gas well that is outside Canada,

(a) there may be allowed to the corporation by such regulation an amount in respect of any or all oil or gas wells in which the corporation has any interest; and

(b) notwithstanding any other provision in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined.

5.—(1) Section 63 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 17, is further amended by adding thereto the following subsection:

(3a) A corporation other than a principal-business corporation may deduct, in computing its income for a fiscal year, the lesser of,

(a) the aggregate of such of its Ontario exploration and development expenses as were incurred by it before the end of the fiscal year to the extent that they were not deducted in computing its income for a previous year, minus that portion of the deduction allowed, if any, in computing its income for the fiscal year under subsection 2 or 3 which is reasonably attributable to Ontario exploration and development expenses; and

(b) that portion of the amount determined under clause (a) equal to the amount of its income for the fiscal year if no deductions were allowed under this section, minus,

(i) that portion of the deduction allowed for the fiscal year under subsection 2 or 3 which is
reasonably attributable to Ontario exploration and development expenses, and
(ii) the deduction allowed for the fiscal year under section 100.

(2) Subsection 4 of the said section 63 is amended by striking out "subsection 3" in the first line and inserting in lieu thereof "subsections 3 and 3a".

(3) Subsection 9 of the said section 63 is amended by striking out "In computing a corporation's Canadian exploration and development expenses" in the first and second lines and inserting in lieu thereof "In computing the Canadian exploration and development expenses and Ontario exploration and development expenses of a corporation".

(4) Subsection 10 of the said section 63 is amended by striking out "Where" in the first line and inserting in lieu thereof "Except as otherwise provided in this section, where".

(5) The said section 63 is further amended by adding thereto the following subsection:

(10a) Notwithstanding subsection 10, where a corporation other than a principal-business corporation has incurred expenses the deduction of which from income is allowable under subsection 2, 3 or 3a,

(a) a corporation that is entitled to a deduction under subsection 2 may, in addition to that deduction, deduct such additional amount as it may claim in respect of Ontario exploration and development expenses under subsection 3a; and

(b) a corporation that is entitled to a deduction under subsection 3 may, in addition to that deduction, deduct such additional amount as it may claim in respect of Ontario exploration and development expenses under subsection 3a.

(6) Subsection 12 of the said section 63, as amended by the Statutes of Ontario, 1973, chapter 157, section 17, is further amended by adding thereto the following clauses:

(ea) "Ontario exploration and development expenses" incurred by a corporation means any expenses that would be Canadian exploration and development expenses incurred by the corporation if clause b of this subsection were read as if the references therein to,
6. Clause a of subsection 2 of section 75 of the said Act is repealed and the following substituted therefor:

(a) Subject to the prescribed conditions, there shall not be included, in computing the income of a corporation, income derived from the operation of a mine that came into production before 1974 to the extent that such income is gained or produced during the period commencing with the day on which the mine came into production and ending with the earlier of the 31st day of December, 1973 and the day thirty-six months after the day on which the mine came into production.

7. The said Act is amended by adding thereto the following section:

106a.—(1) There may be deducted from the tax otherwise payable under this Part for a fiscal year by a corporation that, with respect to such fiscal year, was eligible for a deduction under section 125 of the Income Tax Act (Canada), an amount equal to the lesser of,

(a) 5 per cent of its eligible taxable paid-up capital for the fiscal year; and

(b) 6 per cent of the amount determined under subsection 2.

(a) Subject to the prescribed conditions, there shall not be included, in computing the income of a corporation, income derived from the operation of a mine that came into production before 1974 to the extent that such income is gained or produced during the period commencing with the day on which the mine came into production and ending with the earlier of the 31st day of December, 1973 and the day thirty-six months after the day on which the mine came into production.
Tax Act (Canada) for the fiscal year, not exceeding $50,000, that,

(a) the amount of that portion of its taxable income for the fiscal year that is deemed to have been earned in Ontario, measured in accordance with paragraph a of subsection 4 of section 124 of the Income Tax Act (Canada),

bears to

(b) the total amount of the portions of its taxable income for the fiscal year that are deemed to have been earned in the provinces of Canada measured in accordance with paragraph a of subsection 4 of section 124 of the Income Tax Act (Canada).

(3) In addition to the deduction permitted under subsection 1 there may be deducted from the tax otherwise payable under this Part for a fiscal year by a corporation, the amount, if any, by which the amount determined under clause a of subsection 1 exceeds the amount determined under clause b of that subsection for any of the five fiscal years immediately preceding the fiscal year to the extent that such amount has not previously been deducted under this subsection except that,

(a) the amount that would otherwise be deductible under this subsection from the tax otherwise payable under this Part for a fiscal year shall not be deducted for any fiscal year in respect of which the corporation was not eligible for a deduction under section 125 of the Income Tax Act (Canada) or any subsequent fiscal year; and

(b) in no case shall the additional deduction allowed under this subsection operate to permit a deduction for the fiscal year in excess of the amount determined under clause b of subsection 1 for the fiscal year.

(4) In this section,

(a) "eligible for a deduction under section 125 of the Income Tax Act (Canada)" means otherwise qualified for a deduction under section 125 of the Income Tax Act (Canada), notwithstanding that no deduction was allowed under that section for the fiscal year by reason only that the amount determined under paragraph a or b of subsection 1 of that section was nil for that fiscal year,
and "not eligible for a deduction under section 125 of the Income Tax Act (Canada)" has a corresponding meaning;

(6) "eligible taxable paid-up capital for the fiscal year" means, in respect of any fiscal year ending after the 9th day of April, 1974, the amount, if any, by which,

(i) the taxable paid-up capital amount of a corporation for that fiscal year determined in accordance with subsection 6,

exceeds

(ii) the greatest of the taxable paid-up capital amounts of a corporation for the fiscal years ending on or after the 31st day of March, 1973 and before that fiscal year, determined in accordance with subsection 6,

minus any deduction required by subsection 5;

and

(c) "tax otherwise payable under this Part" means the tax for the fiscal year otherwise payable by the corporation under this Part after making any deduction applicable under sections 103, 104, 105 and 106 but before making any deduction under this section.

(5) Where, for the purposes of section 132, part of the taxable paid-up capital of a corporation determined under Division B of Part III for the fiscal year is deemed to have been used in a jurisdiction outside Ontario, the amount determined under clause b of subsection 4 shall be reduced in the same ratio that the tax payable under section 131 is reduced for that fiscal year.

(6) For the purposes of clause b of subsection 4, "taxable paid-up capital amount" for a fiscal year means the amount of the taxable paid-up capital of the corporation determined under Division B of Part III for the fiscal year reduced by such of the following amounts as are applicable,

(a) the amount by which the taxable paid-up capital of the corporation for the fiscal year was increased by including in the paid-up capital of the corporation for that fiscal year any appraisal surplus;
(6) the amount by which the taxable paid-up capital of the corporation for the fiscal year was increased by including in the paid-up capital of the corporation for that fiscal year any amounts that in the opinion of the Minister are represented by,

(i) the corporation's year-end cash balances,

(ii) loans receivable from shareholders or any other person not dealing at arm's length with such shareholders or the corporation, or

(iii) assets transferred to the corporation in any manner whatsoever from a person with whom the corporation was not dealing at arm's length;

(c) the amount by which the taxable paid-up capital of the corporation for the fiscal year was increased by including in the paid-up capital of the corporation for that fiscal year amounts, other than eligible capital expenditure, represented by goodwill or other intangible assets;

(d) the amount by which the taxable paid-up capital of the corporation for the fiscal year was, in the opinion of the Minister, artificially increased for that fiscal year.

(7) For the purposes of this section, the following rules apply.

(a) where a corporation did not have a fiscal year ending prior to the 9th day of April, 1974, the deduction permitted under this section shall commence with the fiscal year immediately following the first fiscal year of the corporation that is not less than twelve months throughout which it carried on an active business in Canada;

(b) where the fiscal year of a corporation ending on or after the 31st day of March, 1973 is less than twelve months, or where a corporation did not carry on an active business in Canada throughout its fiscal year that included the 31st day of March, 1973, the deduction permitted under this section shall commence with the fiscal year immediately following the fiscal year of the corpora-
tion ending on or after the 31st day of March, 1973 that is not less than twelve months throughout which it carried on an active business in Canada.

8. The said Act is further amended by adding thereto the following section:

Mortgage Investment Corporations

109a.—(1) In computing the income for a fiscal year of a corporation that was, throughout the fiscal year, a mortgage investment corporation,

(a) there may be deducted the aggregate of,

(i) all taxable dividends, other than capital gains dividends, paid by the corporation during the fiscal year or within ninety days after the end of the fiscal year (not exceeding the amount by which the taxable income of the corporation for the fiscal year, determined without regard to the provisions of this clause, exceeds the taxed capital gains of the corporation for the fiscal year) to the extent that such dividends were not deductible by the corporation in computing its income for the preceding fiscal year, and

(ii) one-half of all capital gains dividends paid by the corporation during the period commencing ninety-one days after the commencement of the fiscal year and ending ninety days after the end of the fiscal year; and

(b) no deduction may be made under section 100 in respect of taxable dividends received by it from other corporations.

(2) For the purposes of this Act, any amount received from a mortgage investment corporation by a shareholder of the corporation as or on account of a taxable dividend, other than a capital gains dividend, shall be deemed to have been received by the shareholder as interest payable on a bond issued by the corporation after 1971.

(3) Subsection 2 applies where the taxable dividend (other than a capital gains dividend) therein described was paid during a fiscal year throughout which the paying
corporation was a mortgage investment corporation or within ninety days thereafter.

(4) Where at any particular time during the period commencing ninety-one days after the commencement of a fiscal year of a corporation that was, throughout the fiscal year, a mortgage investment corporation and ending ninety days after the end of the fiscal year, a dividend is paid by the corporation to shareholders of the corporation and the corporation has elected in respect of the full amount of the dividend in accordance with subsection 4 of section 130.1 of the *Income Tax Act* (Canada),

(a) the dividend shall be deemed to be a capital gains dividend to the extent that it does not exceed,

(i) two times the taxed capital gains of the corporation for the fiscal year,

minus

(ii) such part, if any, of each dividend paid by the corporation during the period and before the particular time as is deemed by this subsection to be a capital gains dividend;

and

(b) notwithstanding anything in this Act, any amount received by a corporation in a fiscal year as or on account of the dividend shall not be included in computing its income for the fiscal year as income from a share of the capital stock of the paying corporation, but shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of capital property.

(5) Notwithstanding any other provision of this Act, a mortgage investment corporation shall be deemed to be a public corporation.

(6) For the purposes of this section, a corporation is a mortgage investment corporation throughout a fiscal year if, throughout the fiscal year, it was a mortgage investment corporation as defined by subsection 6 of section 130.1 of the *Income Tax Act* (Canada).

(7) In this section, “taxed capital gains” has the meaning given to that expression by subsection 6 of section 109.

9. (1) Clause *d* of subsection 1 of section 127 of the said 1970-71, c. 63 (Can.) Act is repealed.
(2) Clause c of subsection 2 of the said section 127 is repealed.

10. Subsection 2 of section 135 of the said Act is repealed and the following substituted therefor:

(2) Subject to subsection 3, every corporation referred to in paragraph 30a of subsection 1 of section 1, section 109a, section 114 and clause j of subsection 1 of section 122 shall, in lieu of the tax payable under section 131 or 133, pay a tax of $50.

(3) Subsection 2 does not apply in the case of a corporation referred to in paragraph 30a of subsection 1 of section 1 where, for the purposes of section 33, the Minister has determined that the corporation's chief source of income for a fiscal year is neither farming nor a combination of farming and some other source of income.


(2) This Act, except sections 1, 2, 3, 4, 5, 7, 8, 9 and 10, comes into force on the day it receives Royal Assent.

(3) Sections 1, 5 and 10 shall be deemed to have come into force on the 9th day of April, 1974 and apply to corporations in respect of all fiscal years that end after that date.

(4) Sections 2, 3 and 4 shall be deemed to have come into force on the 10th day of April, 1974 and apply to corporations with respect to all fiscal years that end after the 9th day of April, 1974, except that, in determining the amount of income of a corporation under Part II of the principal Act, as amended by this Act, with respect to the fiscal year of a corporation that ends after the 9th day of April, 1974 and that includes that day, the following rules apply,

(a) determine the income under Part II of the principal Act, as amended by this Act that, but for the rules made applicable by this section, would be computed by the corporation for a fiscal year that ends after the 9th day of April, 1974 and that includes that day;

(b) determine the proportion of the amount determined under clause a that the number of days
of the fiscal year that follow the 9th day of April, 1974 bears to the total number of days of that fiscal year;

(c) determine the income that, but for the rules made applicable by this section, would be computed for the fiscal year that ends after the 9th day of April, 1974 and that includes that day under Part II of the principal Act as that Part stood prior to the 10th day of April, 1974, and on the assumption that that Part was applicable to that fiscal year;

(d) determine that proportion of the amount determined under clause (c) that the number of days of the fiscal year prior to the 10th day of April, 1974 bears to the total number of days of that fiscal year;

(e) determine the aggregate of the amounts determined under clauses (b) and (d) in respect of the corporation,

and the aggregate determined under clause (e) is the income under Part II of the principal Act, as amended by this Act, of a corporation for its fiscal year that ends after the 9th day of April, 1974, and that includes that day.

(5) Section 9 shall be deemed to have come into force on the 10th day of April, 1974, and applies to corporations with respect to all fiscal years that end after the 9th day of April, 1974, except that, in determining the amount of the deduction from paid-up capital of a corporation permitted under clause (d) of subsection 1 of section 127 of the principal Act, repealed by this Act, with respect to the fiscal year of a corporation that ends after the 9th day of April, 1974, and that includes that day, the following rules apply,

(a) determine the deduction from paid-up capital permitted under clause (d) of subsection 1 of section 127 that, but for the rules made applicable by this section, would be deductible by the corporation for a fiscal year that ends after the 9th day of April, 1974 and that includes that day as that section stood prior to the 10th day of April, 1974, and on the assumption that that section was applicable to that fiscal year;
(b) determine that proportion of the amount determined under clause a that the number of days of the fiscal year prior to the 10th day of April, 1974, bears to the total number of days of that fiscal year,

and the amount determined under clause b is the amount that is deductible by the corporation for its fiscal year that ends after the 9th day of April, 1974, and that includes that day.

(6) Section 7 shall be deemed to have come into force on the 9th day of April, 1974 and applies to corporations in respect of all fiscal years that end after the 9th day of April, 1974, except that the amount to be determined under subsection 2 of section 106a for the fiscal year that ends after the 9th day of April, 1974 and that includes that day shall be that proportion thereof that the number of days of the fiscal year that follow the 9th day of April, 1974 bears to the total number of days of that fiscal year.

(7) Section 8 shall be deemed to have come into force on the 1st day of January, 1972 and applies to any fiscal year of a mortgage investment corporation commencing after 1971.

12. This Act may be cited as The Corporations Tax Amendment Act, 1974.